

Appl. No. 10/724,084
Amendment dated: October 24, 2007
Reply to OA of: July 24, 2007

REMARKS

Applicants have amended claim 10 in accordance to specifically delete the subject matter which is indicated in the Official action as being directed to new matter.

The amendments to claim 1 are fully supported by the application as originally filed. Applicants submit that the claims now present in the application are fully supported by the specification as originally filed and no new matter is introduced.

The rejection of claims 10-15, 34 and 35 under 35 U.S.C. 112, first paragraph as failing to comply with the written description requirement has been carefully considered but is most respectfully traversed in view of the amendments to the claims and the following comments. Applicants have deleted the terms "open hollow" and "vertically extending" from claim 10. These terms have been deleted in an effort to expedite prosecution to an early allowance and in view of the statements in the Final Rejection. This amendment clarifies the claim and obviates the outstanding rejection and should be entered.

However, Applicants most respectfully submit "the frying vessel having open hollow substantially parallelepiped shape with vertically extending four sidewalls and a single bottom wall" is supported by the description at page 49, lines 6-10 of the specification and Figure 2. Accordingly, it is most respectfully requested that this rejection be withdrawn.

Applicants most respectfully submit that all of the claims now present in the application are in full compliance with 35 USC 112 and clearly patentable over the references of record.

The rejection of claims 10-15, 34 and 35 under 35 USC 102(a) as being clearly anticipated by WO 02/098266 has been carefully considered but is most respectfully traversed on the grounds that it is not prior art against the claimed subject matter. As is evident from the face of the published application, it is the publication of Applicants' earlier application which does not qualify as prior art under 35 USC 102.

Applicants most respectfully submit that the reference WO 02/098826 is the international publication for international application number PCT/JP01/10089 of which the present application is a continuation as noted in the required cross-reference to parent applications in the first sentence of the specification. See also the Official Filing

Appl. No. 10/724,084
Amendment dated: October 24, 2007
Reply to OA of: July 24, 2007

receipt. The present application was filed on December 1, 2003, and the cited publication was published on December 12, 2002, which is less than a year from the present filing date. WO 02/098826 is not a statutory bar against the present application as tacitly noted in the Official Action by reliance on 35 USC 102(a) and not 102(b). Moreover, the publication is not by others as required by the statute, compare the inventors on the publication with the present inventors.

Applicants submit that the present application is based upon PCT/JP01/10089, as well as JP 2001-165762, of which Applicants have claimed benefit of under 35 U.S.C. 120 and 119. Applicants further submit that the entire contents of PCT/JP01/10089 and JP 2001-165762 are incorporated by reference in the original specification (see page 1, lines 9-14). Therefore, Applicants believe that the rejection is improper for the reasons stated therein. Accordingly, it is most respectfully requested that this rejection be withdrawn.

In addition, Applicants submit herewith a verified translation of PCT/JP01/10089, filed on May 30, 2002, benefit of which is claimed in the present application. This is further evidence that the present application is entitled to benefit of a filing date of May 30, 2002, which is prior to the publication of the cited reference which is not available as prior art. The submission of this translation was necessitated by the citation of the reference in the final rejection. Accordingly, it is most respectfully requested that this rejection be withdrawn.

In view of the above comments and further amendments to the claims, favorable reconsideration and allowance of all the claims now present in the application are most respectfully requested.

Respectfully submitted,
BACON & THOMAS, PLLC

By: Richard E. Fichter
Richard E. Fichter
Registration No. 26,382

625 Slaters Lane, Fourth Floor
Alexandria, Virginia 22314
Phone: (703) 683-0500
Facsimile: (703) 683-1080
REF/cjw
A02.wpd
October 24, 2007